



DISTRICT ATTORNEY'S OFFICE
THREE SOUTH PENN SQUARE
PHILADELPHIA, PENNSYLVANIA 19107-3499
215-686-8000

R. SETH WILLIAMS
District Attorney

March 18, 2016

Honorable Gene E.K. Pratter
United States District Court
U.S. Courthouse
601 Market Street
Philadelphia, PA 19106-1768

RE: Simpson v. Wetzel, et al.
Civil Action No. 15-4510

Dear Judge Pratter:

Today, the undersigned was reviewing pending cases in the district court for the purpose of assigning these matters to attorneys in the federal litigation unit when she made a troubling discovery in this case.

There appears to be a time-bar problem with the pending litigation. Though a petition in this case was “filed” on August 12, 2015, the submission does not contain any claims. Rather the petition merely references a “counseled habeas petition” to be filed at a later date. Since that submission, petitioner’s counsel has filed extensions of time to submit that petition, but has not mentioned the one-year statute of limitations that is still running in this case.

Timeliness in the habeas context is addressed on a “claim-by-claim” basis. *See Mayle v. Felix*, 545 U.S. 644, 649, 664 (2005); *United States v. Duffus*, 174 F.3d 333, 337 (3d Cir.), *cert. denied*, 528 U.S. 866 (1999). Though a court may, in its discretion, allow a petitioner the opportunity to “add meat to the bare bones” of a claim raised, a petitioner

may not seek to advance “a new claim or new theory” after the statute of limitations has expired. *United States v. Thomas*, 221 F.3d 430, 436 (3d Cir. 2000). *See also, Anderson v. Pennsylvania Attorney General*, 82 Fed.Appx. 745 (3d Cir. 2003)(not precedential). In this case, petition submitted does not even have “bare bones.” Indeed, it does not contain any claims.

This is a significant problem. The undersigned felt that it should be brought to the Court’s immediate attention.

Respectfully submitted,

/s/ Susan E. Affronti
SUSAN E. AFFRONTI
Chief, Federal Litigation

/sea

Enclosure

cc: Teri B. Himebaugh, Esq.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

RASHEED SIMPSON : CIVIL ACTION
v. :
JOHN WETZEL, et al. : NO. 15-4510

CERTIFICATE OF SERVICE

I, SUSAN E. AFFRONTI, hereby certify that on March 18, 2016, a copy of the foregoing pleading was served by via the Court's electronic filing system.

/s/ Susan E. Affronti
SUSAN E. AFFRONTI
Chief, Federal Litigation
Philadelphia District Attorney's Office
Three South Penn Square
Corner of Juniper and S. Penn. Sq.
Philadelphia, PA 19107-3499
(215) 686-5703